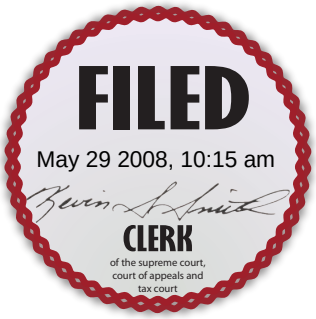

APPELLANT PRO SE:

DONALD BEATTY
Urbana, Indiana

IN THE
COURT OF APPEALS OF INDIANA

DONALD E. BEATTY,	)	
	)	
Appellant-Petitioner,	)	
	)	
vs.	)	No. 85A05-0801-CV-6
	)	
STACY BEATTY,	)	
	)	
Appellee-Respondent.	)	

APPEAL FROM THE WABASH CIRCUIT COURT
The Honorable Duane G. Huffer, Special Judge
Cause No. 85C01-0504-DR-226

May 29, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

Donald Beatty appeals the trial court's order modifying his weekly child support obligation.[1] Donald raises four issues for our review, which we consolidate and restate as whether the trial court properly modified Donald's weekly child support obligation. Concluding the trial court's modification order was proper, we affirm.

Facts and Procedural History

The facts relating to this appeal are limited, in part because Beatty has provided us with only a six-page excerpt of the transcript from the trial court's hearing related to the appealed order. Nevertheless, the record indicates that on July 29, 2005, the trial court entered an order that dissolved Donald's and Stacy's marriage, divided marital property pursuant to the parties' settlement agreement, and required Donald to pay a weekly child support obligation of $100.29. On January 26, 2007, the trial court entered an order that, among other things, increased Donald's weekly child support obligation to $142 and established an arrearage in the amount of $736.59. On November 13, 2007, Donald filed a motion for contempt related to alleged violations of parenting time. This motion presumably also contained a request by Donald to modify his weekly child support obligation because, following a December 12, 2007, hearing on the motion, the trial court entered an order reducing Donald's monthly child support obligation to $114 and required him to pay $10 a week toward the arrearage. The trial court based its calculation

[1] Donald also purports to appeal a protective order and a child support and custody modification order that the trial court entered on November 16, 2006, and January 26, 2007, respectively. However, our docket indicates that Beatty filed his notice of appeal on December 14, 2007, well after the thirty-day period for filing a notice of appeal of these orders had expired. Thus, we lack jurisdiction over Beatty's appeal from these orders. See Ind. Appellate Rule 9(A); Bohlander v. Bohlander, 875 N.E.2d 299, 301 (Ind. Ct. App. 2007), trans. denied.

of Donald's weekly child support obligation on a child support worksheet that was jointly submitted by the parties. Donald now appeals from this order.

Discussion and Decision

This court reviews a trial court's modification of a child support order for an abuse of discretion, which occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. Knisely v. Forte, 875 N.E.2d 335, 339 (Ind. Ct. App. 2007). In conducting this review, we neither reweigh evidence nor judge witness credibility, but consider only the evidence most favorable to the judgment together with all reasonable inferences to be drawn therefrom. Id. We also note that because Stacy has not filed an appellee's brief, Donald's burden is relaxed to the standard of demonstrating prima facie error. Santana v. Santana, 708 N.E.2d 886, 887 (Ind. Ct. App. 1999). Prima facie in this context means "at first sight, on first appearance, or on the face of it." Id. (quoting Johnson County Rural Elec. v. Burnell, 484 N.E.2d 989, 991 (Ind. Ct. App. 1985)).

We note initially that Donald technically prevailed on his motion, as the trial court reduced his weekly child support obligation from $142 to $114. According to Donald, however, the trial court should have reduced this amount further because the child support worksheet upon which the trial court based its order contained erroneous information. Specifically, Donald argues the worksheet should have accounted for his childcare expenses, overstated Stacy's childcare expenses, and failed to account for a childcare tax credit Donald claims Stacy receives. Donald does not cite to any portion of the record to support these contentions, see Briggs v. Clinton County Bank & Trust Co.

of Frankfurt, Ind., 452 N.E.2d 989, 1014 (Ind. Ct. App. 1983) ("Statements made in briefs are not evidence."), and overlooks that he signed the worksheet, affirming "under the penalties of perjury the foregoing representations are true." Appellant's Appendix at 19. Because a trial court can modify a child support order based on an agreement between the parties, see Hay v. Hay, 730 N.E.2d 787, 793 (Ind. Ct. App. 2000), we are not convinced Donald has demonstrated prima facie error. Thus, it follows that the trial court did not abuse its discretion in modifying Donald's weekly child support obligation.

Conclusion

The trial court properly modified Donald's weekly child support obligation.

Affirmed.

BAKER, C.J., and RILEY, J., concur.